S.B. Criminal Misc. Bail Application No.5883/2006
Hariom Prasad Goyal Vs. State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Dinesh Yadav, counsel for petitioner.
Mr. M.L. Goyal, Public Prosecutor for State.

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Learned counsel for accused petitioner does not press this anticipatory bail application on merits and submits that the accused petitioner is ready and willing to surrender before the concerned court. Accordingly, this anticipatory bail application is dismissed as not pressed.

However, the accused petitioner is free to surrender before the concerned court in accordance to law. In case he surrenders before the concerned court and moves an application for grant of bail, the same may be disposed of expeditiously, as far as possible on the same day, in accordance to law.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.

S.B. Criminal Misc. Bail Application No.5259/2006
Smt. Meena Vs. State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Anurag Sharma with
Mr. Arvind Sharma, counsel for petitioner.
Mr. M.L. Goyal, Public Prosecutor for State.
Mr. N.K. Singhal, counsel for complainant.

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Heard learned counsel for accused petitioner as well as complainant, learned Public Prosecutor for the State, perused the case diary and other material produced during the course of arguments.

Without making any observation on merits, having considered the rival submissions made at the bar, nature of accusation, material on record and all other facts and circumstances, I deem it proper to grant the benefit of pre-arrest bail to accused petitioner Smt. Meena who is sister of the husband of the complainant.

In the result, the bail application is allowed and it is directed that in the event of arrest of petitioner Smt. Meena W/o. Megh Singh, she shall be released on bail by the concerned SHO/Investigating Officer in FIR No.49/2006 registered at Police Station Mahila Thana, Bharatpur, District Bharatpur provided she furnishes a personal bond in the sum of Rs.10,000/- together with two sureties each in the sum of Rs.5,000/- to his satisfaction on the

following conditions:-

1. that the petitioner shall make herself available for interrogation by a police officer as and when required,
2. that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or any police officer; and
3. that the petitioner shall not leave India without previous permission of the Court.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.

S.B. Criminal Appeal No.1007/2006
Devi Singh Vs. The State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Bharat Saini, counsel for appellant.
Mr. M.L. Goyal, Public Prosecutor for State.

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Heard. Admit. Call for the record.

Heard learned counsel for accused appellant Devi Singh and learned Public Prosecutor for the State on the prayer for suspension of sentence awarded to the accused appellant Devi Singh and perused the judgment of the court below.

Learned counsel for accused appellant contended that accused appellant has been convicted for the offence under sections 307 IPC & 3/25 of the Arms Act and maximum sentence awarded is two years simple imprisonment and fine of Rs.500/- under section 307 IPC. It is also submitted that at present his sentence has been suspended by the learned trial court upto 19/10/2006.

Learned Public Prosecutor opposed the prayer for suspension of sentence.

Taking into consideration the entire facts and circumstances and without expressing any opinion on the merits, I think it just and proper to suspend the sentence of imprisonment awarded to the accused appellant till disposal of this appeal.

It is, therefore, ordered that the sentence of imprisonment awarded to the accused appellant Devi Singh S/o. Ramanand shall remain suspended during the pendency of this appeal provided he furnishes a personal bond in the sum of Rs.10,000/- together with one surety in the like amount to the satisfaction of the learned trial court for his appearance before this Court on 6th November, 2006 and whenever called upon to do so.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.

S.B. Criminal Appeal No.1002/2006
Rajesh and others Vs. The State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Ashvin Garg with
Mr. Awadesh Kumar Purohit, counsel for appellants.
Mr. M.L. Goyal, Public Prosecutor for State.

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Heard. Admit. Call for the record.

Heard learned counsel for accused appellants and learned Public Prosecutor for the State on the prayer for suspension of sentence awarded to the accused appellants and perused the judgment of the court below.

Learned counsel for accused appellants contended that accused appellants have been convicted for the offence under sections 308/34, 323/34 & 325/34 IPC and maximum sentence awarded is three years rigorous imprisonment and fine of Rs.2000/- under section 308/34 IPC. It is also submitted that during the course of trial they were on bail and at present their sentence has been suspended by the learned trial court for a period of one month.

Learned Public Prosecutor opposed the prayer for suspension of sentence.

Taking into consideration the entire facts and circumstances and without expressing any opinion on the merits, I think it just and proper to suspend the sentence of imprisonment awarded to

the accused appellants till disposal of this appeal.

It is, therefore, ordered that the sentence of imprisonment awarded to the accused appellants Rajesh, Mukesh, Ramswaroop and Bhojraj shall remain suspended during the pendency of this appeal provided each of them furnishes a personal bond in the sum of Rs.10,000/- together with one surety in the like amount to the satisfaction of the learned trial court for their appearance before this Court on 7th November, 2006 and whenever called upon to do so.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.

S.B. Criminal Appeal No.1003/2006
Surajkaran @ Sujya Vs. State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Ashvin Garg with
Mr. Awadesh Kumar Purohit, counsel for appellants.
Mr. M.L. Goyal, Public Prosecutor for State.

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Heard. Admit. Call for the record.

Heard learned counsel for accused appellant and learned Public Prosecutor for the State on the prayer for suspension of sentence awarded to the accused appellant and perused the judgment of the court below.

Learned counsel for accused appellant contended that accused appellant has been convicted for the offence under sections 325 & 323 IPC and maximum sentence awarded is three years rigorous imprisonment and fine of Rs.5000/- under section 325 IPC. It is also submitted that during the course of trial he was on bail and at present his sentence has been suspended by the learned trial court for a period of one month.

Learned Public Prosecutor opposed the prayer for suspension of sentence.

Taking into consideration the entire facts and circumstances and without expressing any opinion on the merits, I think it just and proper to suspend the sentence of imprisonment awarded to the accused appellant till disposal of this

appeal.

It is, therefore, ordered that the sentence of imprisonment awarded to the accused appellant Surajkaran @ Sujya S/o. Balu shall remain suspended during the pendency of this appeal provided he furnishes a personal bond in the sum of Rs.10,000/- together with one surety in the like amount to the satisfaction of the learned trial court for his appearance before this Court on 8th November, 2006 and whenever called upon to do so.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.

S.B. Criminal Misc. 2nd Bail Application No.3576/06
Bijendra Singh Vs. State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Biri Singh, counsel for petitioner.
Mr. M.L. Goyal, Public Prosecutor for State.

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This second bail application under section 439 Cr.P.C. has been filed by the accused petitioner Bijendra Singh in FIR No.368/2005 registered at Police Station Manak Chowk, Jaipur for the offence under sections 8/18, 8/29 & 8/58 of the N.D.P.S. Act.

Heard learned counsel for accused petitioner, learned Public Prosecutor for the State, perused the case diary and other material produced during the course of arguments.

Learned counsel for accused petitioner contended that even according to the prosecution case the contraband opium has not been recovered from the possession of the accused petitioner but from the possession of other co-accused persons Ashok Jain and Sunil Saraswat. It is also submitted that there is no reliable evidence against the accused petitioner in regard to planting the said opium by the accused petitioner in the car of Ashok Jain and police has impleaded him mainly on the basis of information of the accused petitioner allegedly given under section 27 of the Evidence Act which is not admissible in evidence. It is also submitted that co-accused

persons Ashok Jain and Sunil Saraswat have already been bailed out and the arrest of another co-accused Jogendra has been stayed by a coordinate bench in the petition under section 482 Cr.P.C.

Learned Public Prosecutor vehemently opposed the bail application and contended that after investigation the police has filed negative final report against Ashok Jain and Sunil Saraswat but subsequently the court took cognizance also against them. It is also submitted that it has come in the investigation that the accused petitioner Bijendra Singh planted the opium of about 7 kg. which was more than the commercial quantity, in the car of Ashok Jain at the behest of co-accused Jogendra which was subsequently recovered from his car. It is also submitted that police has recovered the diary of the accused petitioner Bijendra Singh on his information wherein the detail about the purchase of opium has been mentioned and the police also collected the mobile record of the accused petitioner and co-accused Jogendra Balotia which also confirms that after planting the contraband opium in the car of Ashok Jain the accused petitioner informed to Jogendra on his mobile. It is further submitted that the statement of one eye-witness has also been recorded who saw the accused petitioner near the car of Ashok Jain on the date of incident.

I have considered the rival submissions made at the bar. Without making any observation on merits and keeping in view the entire facts and

circumstances, nature of accusation and also the embargo of section 37 of the N.D.P.S. Act, I do not deem it proper to enlarge the accused petitioner Bijendra Singh on bail under section 439 Cr.P.C.

Accordingly, the bail application is rejected.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.

S.B. Criminal Misc. 2nd Bail Application No.4915/06
Azharuddin Allegedly Alias Aju Miya
Vs.
State of Rajasthan

Date Of Order :: 6.10.2006

Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Anil Upman, counsel for petitioner.
Mr. A.K. Bajpai, Special P.P.

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This second bail application under section 438 Cr.P.C. has been filed by the accused petitioner Azharuddin Allegedly Alias Aju Miya in FIR No.33/2006 registered at Police Station Nihalganj, District Dholpur for the offence under section 380 IPC.

Heard learned counsel for accused petitioner, learned Public Prosecutor for the State, perused the case diary and other material produced during the course of arguments.

It is contended on behalf of the accused petitioner that there is no material against the accused petitioner to connect him with the crime and only on the surmises and on the basis of the informations given by the co-accused in regard to the discovered facts the accused petitioner has been fastened in this matter. It is also

submitted that it is not the prosecution case that the accused petitioner committed theft from the palace of Dholpur but only the general allegations have been levelled that he along with another co-accused Nanhe Miyan purchased the stolen articles from Hari Agrawal of Gwalior and sold the same to Vaman Nayaran Ghiya but there is no iota of evidence that the accused petitioner ever knew that such articles are stolen property, therefore even prima facie the accused petitioner has not committed any offence and as such no custodial interrogation can be said to be required. Reliance has been placed on the judgment delivered by the Supreme Court in the case of **Joginder Kumar Vs. State of U.P. and others**, reported in **(1994) 4 Supreme Court Cases 260** wherein it has been held that police officer must be satisfied about the necessity and justification of such arrest on the basis of some investigation. It has further been observed that arrest should normally be avoided except in cases of heinous crime.

Learned Special Public Prosecutor vehemently opposed the bail application and

contended that the accused petitioner is one of the active member of the group which was engaged in purchasing and selling the antique stolen properties. It is also submitted that the police has collected the material that at the time of purchase of stolen articles from Hari Agrawal, the accused petitioner was made aware that these articles are from Dholpur palace, even then knowingly the accused petitioner purchased those articles and sold it again to Vaman Narayan Ghiya and the recovered articles have been identified by the employees of Dholpur palace. It is also submitted that earlier the bail application of the accused petitioner has been dismissed after taking all the factors into consideration.

I have considered the rival submissions made at the bar. It would not be proper to make observation on merits at this juncture but keeping in view the entire facts and circumstances and the alleged involvement of the accused petitioner in the crime and the nature of accusation, I do not deem it proper to grant the benefit of pre-arrest bail to the accused petitioner.

Accordingly, this second anticipatory bail application is rejected.

(J.R. Goyal),J.

VS Shekhawat
Jr.P.A.